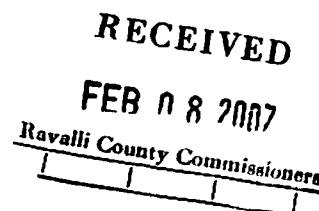




RAVALLI COUNTY ATTORNEY

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TO: Karen Hughes
CC: Commissioners (~~Howard~~, Alan, Greg)
FROM: Alex Beal, Deputy *AB*
DATE: February 7, 2007
RE: Your Request for Legal Review, 1-29-07, partial answer



#2 Sunset Orchards 3, Blk 8, Lot 44B AP – Joe Smith's Request to Meet the Road Contribution Condition of Preliminary Plat Approval

I talked this one over with George and it is our opinion that it is not our job to provide legal services to individual citizens, which is what it appears that Mr. Smith is seeking here. Nor is it in Ravalli County's interest to provide financing for people to complete subdivisions, which it also appears that Mr. Smith is seeking here. I am speaking with Tristan Riddell about the use of Letters of Credit, and while I have some issues with the particular language of the specific document we were discussing, that format might be more effective in making sure that the county gets paid.

#3 Interim Zoning Question – Does the interim zoning regulation apply to existing homes?

Regarding the Betty Frost property, this appears to be a question of whether the 1 per 2 ordinance applies to already constructed buildings, i.e. whether construction is grandfathered in. I certainly understand the point you make in terms of the word "building." While I must say that "building" turns out to be rather inartful language, I do not agree that Ms. Frost's property is grandfathered in. In my opinion, the key word is not "building," but rather "provide." Were "building" to be construed as nothing more than building, all applications for subdivision during

the time of 1 per 2 would seek merely to break parcels into ½ or 1 acre lots, and maintain their current (agricultural or otherwise) uses. Once they were subdivided, doubtlessly, their uses would change, without the need for subdivision approval. I think that the only way to interpret the language of the regulation, and give it any effect, is to say that the word “provide” means “allow.” Thus, “No preliminary plat subdivision applications may be approved that [allow] for the building of residences at a higher density than one dwelling per two (2) acres.” In other words, you cannot subdivide parcels of land into an average size of less than two acres. Since Ms. Frost’s two resulting parcels would be 1 acre each, she would be in violation of the regulation. This might be a good candidate for a variance, once the board is up and running, as what she is seeking to do is quite different than your average subdivision.

#4 Lisa Patterson Bed and Breakfast

Would you mind sending us specific information on why you believe that subdivision review is required for this property? We will need that information before we can answer this question

#5 Betty Lund’s signature on Preliminary Plat Decisions.

As Betty Lund is no longer a commissioner, she may no longer sign documents as a commissioner. Howard Lyons may sign these preliminary plat decisions, as himself, in her place. Additionally, unless I misunderstand your question, any or all of the three current commissioners may sign these, even if they were not present for the preliminary vote. The Commission, rather than individual commissioners, approve matters, thus two commissioners, which ever ones you can find, may approve these.

I will do my best to answer the rest of your questions as quickly as I can, and I look forward to chatting with you. If you have further questions, or would like clarifications, do not hesitate to call or email me.

Thank you,

Alex Beal